

OCT 16 2003

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

RALPH CALVIN YOUNG, JR.,

RESPONDENT.

)
)
) FINDINGS OF FACT, CONCLUSIONS
) OF LAW, RECOMMENDED ORDER
) AND ORDER
)

CAUSE NO.: A-1516

Nov 24, 2003 ACCT# 8521 \$1750.00
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YOUNG JR, RALPH CALVIN
CHECK# 373324537

This matter came on for hearing on the 30th day of September, 2003, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Martin Swanson. Ralph Calvin Young, Jr., ("Respondent") was present, but was not represented by counsel. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed Nebraska insurance producer whose current registered address with the Department is 16820 Frances Street, #200, Omaha, NE 68130.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. The Petition and Notice of Hearing were served upon Respondent by mailing the same to his address of record by certified mail, return receipt requested. Respondent received the Petition and Notice of Hearing on or about September 8, 2003 as evidenced by the certified mail return receipt card attached to Exhibit 2.

4. On or about September 10, 2002, the Department received a complaint from a Marsha Sapp. On September 10, 2002, an Insurance Investigator in the Consumer Affairs Division, Scott Zager, sent the Department's first request for information by certified letter to Respondent requesting Respondent provide certain information to the within fifteen working days regarding Ms. Sapp's complaint. Exhibit 5. The Department did not receive a response from Respondent as of October 5, 2002 as evidenced by Exhibit 3.

5. In follow-up to the first request for information, Jane Francis, the Administrator of the Consumer Affairs Division, sent a second letter to Respondent on October 8, 2002. Exhibit 6. Respondent replied to this letter on November 18, 2002, which is after the additional fifteen working days to respond had expired. Exhibit 7. The response was incomplete and the Department requested additional information from Respondent via a third letter on January 3, 2003 as evidenced by Exhibits 3 and 8. Respondent failed to respond to the Department's third request for information within fifteen working days. Exhibit 3.

6. Jane Francis, the Administrator of the Consumer Affairs Division, wrote to Respondent in a fourth letter on or about February 4, 2003, Exhibits 4 and 9, requesting a response. Exhibit 16 shows that this letter was received at Respondent's office on February 9, 2003.

7. On or about March 6, 2003, the Department received a response from Respondent to the fourth letter requesting information. Exhibit 10. Respondent provided 47 pages of phone bills, but did not respond to the questions raised in the January 3 or February 4, 2003 letters. Thus, Respondent's reply to the Department's third and fourth requests for information was inadequate and untimely.

8. On March 7, 2003, Scott Zager, on behalf of the Department, sent a fifth letter to Respondent requesting that he provide an adequate response to the January 3, 2003 letter. Exhibit 11. When Respondent did not reply within fifteen working days, the Department again, through Jane Francis, sent a letter requesting a response. The letter is dated April 18, 2003. Exhibit 12. As evidenced by Exhibit 16, this letter was received at Respondent's office on April 21, 2003.

9. On May 6, 2003, Respondent replied to the Department's April 18, 2003 letter, which is within the fifteen working day response time. Exhibit 13. However, his reply raised additional questions. On May 6, 2003, the Department sent a seventh letter to Respondent. Exhibit 14. Respondent did not reply to this letter.

10. On June 5, 2003, the Department sent an eighth request, a follow-up, to Respondent with a copy of the May 6, 2003 letter attached requesting that he provide a response. Exhibit 15. As evidenced by Exhibit 16, this letter was received at Respondent's office on June 6, 2003. To date, the Department has not received a response from Respondent. Exhibit 3.

11. Respondent was present and testified. Respondent has worked with Central Financial Services, his current insurance agency, since 1999. Since 1997, however, Respondent has worked on the employee benefits needs of the Greater Omaha

Community Action, Inc., ("GOCA"). Respondent was assigned to work with GOCA on the employees' retirement planning, but involved himself in other aspects of GOCA's insurance needs when members of the GOCA Board resigned and upper management was terminated. Marsha Sapp is an employee of GOCA. Respondent testified that persons involved in this transition at GOCA destroyed personnel documents and other files. This would have made it difficult, if not impossible, for Respondent to obtain the information that the Department requested although Respondent admits he did not explain that thoroughly in his responses to the Department. During the subsequent months, GOCA's upper management went through a number of changes and Respondent felt responsible for assisting the remaining staff in a number of areas. Respondent admitted that he did not respond timely to the Department's letters primarily because he was "putting out fires" and he has to make decisions about which issues are the most important to deal with on a daily basis.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-4041 et seq.*
2. The Department has personal jurisdiction over Respondent.
3. Respondent violated *Neb. Rev. Stat. §44-4059(1)(b)* by failing to respond to the Department's requests for information within fifteen working days as required by *Neb. Rev. Stat. §44-1525(11)*.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that:

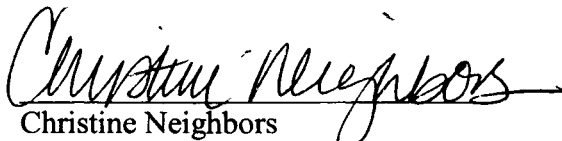
1. Respondent is ordered to provide a complete and thorough written response to the Department's May 6, 2003/June 5, 2003 letters within twenty (20) days from the date the Director of Insurance signs this Order. If Respondent fails to respond or provide an adequate response to the Department within the twenty (20) days, Respondent's insurance producer license shall be automatically suspended until Respondent complies with this requirement.

2. Respondent shall pay an administrative fine of \$750.00 within thirty (30) days from the date the Director of Insurance signs this Order.

3. Respondent is required, at his expense, to complete and successfully pass one continuing education class which includes a section on the Department's role, as regulator, in the licensing of insurance producers. This class is in addition to the 24 hours of continuing education that Respondent is required to complete during his two-year licensing period and is to be completed during that timeframe. Respondent should contact the Department's Licensing Administrator within thirty (30) days from the date the Director of Insurance signs this Order to discuss the class options available to him.

Dated this 10th day of October, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the conditions of the Recommended Order

are adopted as the official and final Order of this Department in the matter of State of
Nebraska Department of Insurance v. Ralph Calvin Young, Jr., Cause No.: A-1516.

Dated this 16th day of October, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of
Law, Recommended Order and Order was served upon the Respondent by mailing a copy
to Respondent at 16820 Frances Street, #200, Omaha, NE 68130 by certified mail, return
receipt requested on this 16th day of October, 2003.



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